THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 2484 of 2003

O r d e r:

Assailing the order dated 29.10.2002, passed by the Assistant Commissioner of Labour, Anantapur, in W.C. No. 19 of 2002, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that the Assistant Commissioner of Labour, Anantapur, without issuing any notice to the petitioner and without recording any reasons, by a mere endorsement made on the affidavit of respondent No.2-workman, has allowed the application filed by the petitioner seeking to condone a long and inordinate delay of 14 years and 16 days in filing the appeal, which is not only illegal and arbitrary, but is also violative of the principles of natural justice.

The learned Government Pleader for Labour for respondent No.1 as well as the learned counsel for respondent No.2-workman fairly admitted that the delay has been condoned by a mere endorsement without any notice to the petitioner and without recording any reasons.

No counter is filed, despite service of notice.

Heard the learned counsel for the petitioner, the learned Government Pleader for Labour for respondent No.1 and the learned counsel for respondent No.2-workman.

The impugned endorsement, made by the Assistant Commissioner of Labour, which allowed the application of respondent No.2-workman, seeking to condone the delay of 14 years and 16 days in filing appeal, merely states "refer records and allowed". The

endorsement, which is purported to be an order passed condoning the long delay in preferring the appeal, really shocks the conscience of the Court. It is unfortunate to note that the Assistant Commissioner of Labour, Anantapur, not only failed to record any reasons for condoning the long delay, but also did not issued notice to the petitioner to enable them to put forth their defence. Had the Assistant Commissioner of Labour, Anantapur, issued notice to the petitioner and despite issuance of notice, the petitioner failed to put forth his defence, then he would have been justified in making such an endorsement. The Assistant Commissioner of Labour, Anantapur, by making such an endorsement, which seeks to affect the rights of the petitioner and unsettle the already settled matters, has thrown the principles of natural justice to winds. The Assistant Commissioner of Labour, Anantapur, who is bestowed with the power of entertaining appeal, before condoning the delay, was expected to issue notice to the other side and upon considering their reply, pass orders on the condone delay petition filed by respondent No.2-workman, and he having not adopted such a course, the impugned endorsement made by him, allowing the application of respondent No.2-workman seeking to condone the long delay of 14 years and 16 days, is liable to be set aside.

For the foregoing reasons, the endorsement dated 29.10.2002, made by the Assistant Commissioner of Labour, Anantapur, purporting to allow the application of respondent No.2-workman seeking to condone the long delay of 14 years and 16 days in filing the appeal, is set aside. The Assistant Commissioner of Labour, Anantapur, is directed to issue notice of the application to the petitioner, and after considering the their defence, pass appropriate speaking orders. The Commissioner of Labour under the Workmen Compensation Act, is

directed to examine the order passed by the Assistant Commissioner of Labour, Anantapur, and take appropriate action against him.

Accordingly, the writ petition is allowed. No costs.

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N.V. RAMANA, J.

Dated: 19.10.2006
KSR